Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* May I know, Sir, whether the principle of the resolution is put to vote?

Rao Sahib P. V. Raphael *(Chief Secretary to Government) :* Excepting the blood shed referred to by you, the principle that minority communities should be given promotions to higher appointments but not in the next vacancy of the Secretary has been accepted by Government.

മിസ്റ്റർ പി. എ. മുഹമ്മതു് അശ്റഫ്: ബഹുമാനപ്പെട്ട ചീഫ് സിക്രട്ടറിയുടെ ഇതു പോലെയുള്ള പല വാക്കുകളും ഞങ്ങൾ കേട്ടിട്ടുണ്ടു്. അതെല്ലാം തുക്സപ്റ ചെയ്യാമെന്നൊക്കെ പറഞ്ഞിട്ടുണ്ടു്. അതാനന്തരം കൊടുത്തിട്ടില്ല. പക്ഷെ എടുത്തു കണ്ടിട്ടുണ്ടു്.

Rao Sahib P. V. Raphael *(Chief Secretary to Government):* മുസ്ലീം മെമ്പർ ഇങ്ങിനെ പറയുന്നതു കാരണം കഷ്ടമാണു്. Having seen all that has been done for his own community it is unjust and unfair Hon'ble Member to offer such remarks.

Mr. P. Mohammed Ashrof *(Cranganur):* I beg leave of the house to withdraw.

The resolution, by leave, withdrawn

12. Need to recognise the claims of the mofussil Bar in the matter of recruitment to the Judiciary

Mr. P. Kumaran Ezhuthassan *(Vadakkanchri):* I move that *"This Council recommends to Government that in the matter of recruitment to the judiciary from the Bar, the mofussil Bar be given due recognition"*.

This is a proposition, Sir, which has to be viewed on its merits. There is no communal colour in it. There is no puestion of age in it. There is no question of blood in it.

There is no question of commands from elsewhere in it. There is no question of propaganda in it. There is only a very essential proposition based upon a well founded principle which is behind this resolution. I would like Sir, to read the resolution over again, so that the attention of the House may be revetted upon what is wanted by the resolution and what I pray this House may be pleased to accord. Its support and sanction for.

Let it be noted Sir, that I am a person unqualified to go into the judiciary over aged to boot. There-fore let it not be mis-construed that this is an attempt on my part to get even a Magistrate's place or Munsiff's place or anything higher than that. Let it also be noted that I hail from an un-represented community and I leave it there. There are no persons in that community who are aspiring for these places. The proposition is not placed either on my personal behalf or on behalf of my community but on behalf of a profession whose humble member I have the honour and previlige being for the last 30 years or more. I have been viewing the appointments that are made to the judiciary from time to time and a casual look at appointments that these appointments to the judiciary belong to two categories. At times officers of Government who are qualified under the Standing Orders to go into the judiciary are appointed whether they are competent or not, whether there are long out of touch with the judicial side of their education or not, irrespective of question of merit. But because of certain other circumstances members of the service technically qualified but that technical qualification having left behind for years together have been recruited. That is one section of the recruitment to judiciary.

Another section, very rarely, very very rarely of the appointments to the judiciary was from the Bar. From where alone according to me can the appointments to the judiciary be made; and a dispassionate thinker will say that anybody who wants justice to be granted by the judiciary; any one who want justice equity and good conscience to be seen in every line of the jndgement that are written by the judicial officers, every one who has got that idea of the judiciary will say that every appointment, cent percent of it must be made from the Bar. That is a place Sir, the equal of it only that of the Doctor because both are places of service. Let it not be misunderstood that the profession of the Bar is place of a lucrative remuneration for the practitioner. True Sir, that the member of the profession inclusive of myself do take remuneration for the services that we render. For that service of the public if they can manage without taking remuneration for it, low figures or high figures it is much better that it is done. A practitioner if he will demand fee according to the riches of the client and deal with the poor client and give his service fee of cost as members of the profession are even now doing that will be noblest.

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Therefore it Sir that I said according to my canons appointments cent percent to the judiciary ought to be from the Bar. If any proportion has been fixed for the appointment in the judiciary from the service as also from the Bar which I know from the answer to a question answered yesterday or day before yesterday that it has not been done it would have been desirable. But it has been stated in answer to that question reffered by me that members of Government when they are found competent are also appointed. You look at the convenient way in which that answer is worded—members of the service when they are found competent. What are the test applied, who applies the test and all that could not be exposed since that question was not reached. The only thing is that when they are found competent that should be respected and adhered to which of course is not the practice now and which probably might have been the case of the Resolution though ill-worded of my Hon'ble friend who has been magnanimous enough to call me what he called which I accept and for which I thank when the charge is in the other way. Now I have no quarrel with the practice of Government in giving appointments to the judiciary to servicemen provided the conditions that they mentioned yesterday strictly adhered to. As to the other part of the appointment that is the case of appointment from the Bar concerned I want this principle to be applied. The claims of the mofussil Bar be given due recognition. Any one who has taken pains to study the personnel of judiciary both magistracy as also the civil side will see that that portion of the appointment which were so magnanimously I must say appointed from the Bar with any exception thus far has been from the Bar of the capital and very very rarely from the Bar at Trichur. Now, Sir, let me now be again misunderstood by saying that in the case of recruitment to the judiciary from the Bar of these two places I have absolutely no quarrel with the personal of the appointment or the selection. It is not also my proposition of parochialism. I have no case that one amongst the members of the Vadakkancheri Bar should be appointed. There is also no case that the appointment made from the Irinjalakuda Bar. There is no case that is may taken from Chittur. But my proposition is only that the case of the mofussil bars should be recognised. The Hon'ble Chief Justice the other day when he was in our midst and when he was in a way replying to a certain memorandum which we placed before him, stated along with the various other useful things, that he was pleased to give us in the shape of advice for guidance, was also pleased to tell us that it is not a case of the refusal on the part of Government to recognise their claims in the very nature of things it is not always impossible to select persons from the Mofussil Bar; and he gave us certain difficulties standing the way one of them being that the appointing authority which I maintain, Sir, ought to be the High Court which I know is not. On their recommendation it is said that the Government appoint. I say it should be completely by the Judiciary; the executive having absolutely nothing to do with the appointments because that is an office which should not be touched or even dreamt of by the executive which has got so many things round about it dirty. That is justily that is dispensation of justice. That of course is another proposition, and constituted as we are, we know that it will be easy. It is only a question of time, may be, in months.

Now, Sir, on that question, I was referring to the observations made by the Hon'ble Chief Justice. There are difficulties. The Vakils of the Mofussil Bar have no opportunities or rather do not appear before the Judges of the High Court. So, direct knowledge, they cannot have brilliant though they be, belonging to the Mofussil bars. In such cases, we can be guided by the opinion of the District Judge, before whom, these gentlemen have greater opportunities of appearing. He assured us that in such matters, when any member of the mofussil Bar puts in, a petition or makes a request for election to the judiciary at any time, with the opinion of the District Judge concerned, that would be taken as the basis of the capacity of the applicant concerned. But after saying all these things he pointed out the obvious difficulty. After all, the appointments to the judiciary in a small State like Cochin, are very limited. A portion of it, is reserved for good or bad men of the services. For a few days more, you may continue and after that you will change. In spite of all that the Chief Justice was pleased to tell us, I took it into my head to move the resolution just to show, the feeling of the Mofussil Bar and therefore, the necessity for bringing it to the notice of the Government of the day, particularly. We shall wait and see whether the expectations of the Mofussil Bars in this behalf, will become a fait accompli before long. With these observations, I commend this resolution for the acceptance of the House, not upon any other consideration, but upon the intrinsic merit of the principle that is in the resolution. Sir, I have done.

Mr. K. T. Achuthan *(Mukundapuram-Ezhuvas)*: I second the resolution.

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* മിസ്റ്റർ കെ. എസ്സ്: പണിക്കർ: ഈ പ്രമേയത്തെ അനുകൂലിക്കുന്നതിൽ എനിക്കതിയായ സന്തോഷമുണ്ട്. ഇവിടെ ജൂഡീഷ്യൽ ഡിപ്പാർട്ട്മെണ്ടിലേക്ക ബാറിൽനിന്ന് ഉദ്യോഗത്തിനു റിക്രൂട്ടചെയ്യുന്ന ഭാഗ്യവാന്മാർ എറണാകുളത്തും തൃശ്ശിവപേരൂരിലുമുള്ള വക്കീലന്മാരാണ്. എത്ര സമർത്ഥന്മാരായാലും ചിറയ്ൻ, വടക്കാഞ്ചേരി, ഇരിങ്ങാലക്കുട, കൊടുങ്ങല്ലൂർ മുതലായ പ്രദേശങ്ങളിലുള്ള വക്കീലന്മാർക്ക് അങ്ങിനെയുള്ള ഭാഗ്യം കിട്ടാറില്ല. എറണാകുളം, തൃശ്ശിവപേരൂർ എന്നീ സ്ഥലങ്ങളൊഴിച്ച് മറ്റു സ്ഥലങ്ങളിൽനിന്ന റിക്രൂട്ടചെയ്തതായി എന്റെ അറിവിൽ പെട്ടിട്ടില്ല. അടുത്ത അവസരത്തിൽതന്നെ ഇതിനു ഉദാഹരണമുണ്ടായിട്ടുണ്ട്. കോടതിയിൽ വളരെയധികം പരിചയമുള്ളവരും പ്രാപ്തന്മാരും സമർത്ഥന്മാരും, സത്യസന്ധന്മാരുമായ വക്കിലന്മാരെ വേണം ജൂഡീഷ്യൽ ഡിപ്പാർട്ട്മെണ്ടിലേക്ക തിരഞ്ഞെടുക്കുവാൻ. ചില വക്കീലന്മാർ, ഞാൻ വക്കീലന്മാരെപ്പറ്റി ഇതു പറയുമ്പോൾ അവർ ക്ഷമിക്കണം—രണ്ടുഭാഗത്തും തെളിവു ഹാജരാക്കുന്നുണ്ട്. ഇങ്ങിനെയുള്ളവർ ധാരാളമുണ്ടെന്നു മനസ്സിലാക്കുവാൻ സാധിക്കും. അങ്ങിനെയല്ലാത്ത സമർത്ഥന്മാരായ വക്കിലന്മാർ മഫ്യുസൽ (Mofussil) കോടതികളിൽ ഉണ്ടെങ്കിൽക്കൂടി അവരുടെ സാമർത്ഥ്യം വിഗണിക്കപ്പെട്ടിരിക്കുകയാണ്. അവരെപ്പറ്റി ചിന്തിക്കുന്നതേയില്ല. ഇതുമൂലം ഈവകസ്ഥലങ്ങളിൽ നല്ലവണ്ണം പ്രാക്ടീസ് ചെയ്യുന്ന വക്കീലന്മാരുണ്ടെങ്കിൽകൂടി, അവക്ക ഉദ്യോഗം കിട്ടണമെന്നാഗ്രഹമുണ്ടെങ്കിൽ അവിടംവിട്ട ആരുമറിയാതെ എറണാകുളത്തൊ, തൃശ്ശിവപേരൂരൊ ചെന്ന് പ്രാക്ടീസ് ആരംഭിക്കണം. അവരുടെ സാമർത്ഥ്യം എറണാകുളത്തൊ, തൃശ്ശിവപേരൂരൊ പ്രകടിപ്പിച്ചാൽ അല്ലാതെ അവക്ക ഗവണ്മെണ്ട് സർവ്വീസ്സിൽ കടന്നുകൂടാൻ നിവൃത്തിയില്ലയെന്നുള്ള പരിതസ്ഥിതിയാണ് ഇവിടെയുള്ളതു. വക്കിലന്മാരായ ഈ ജനവിഭാഗത്തോട ഇങ്ങിനെയുള്ള ചിറമ്മനയം സ്വീകരിക്കുന്നതു ഒരിക്കലും ആശാസ്യമല്ല; ചിലരുടെ ഗ്രൂപ്പാർശി മാത്രം നോക്കി പ്രവത്തിക്കുന്നതു ശരിയല്ല. ഇനി സ്വന്തക്കാരെ സർവ്വീസിൽ കയറണമെന്നുണ്ടെങ്കിൽ അവരുടെ സാമർത്ഥ്യമോ, പരിചയമോ ഒന്നും നോക്കാറില്ലന്ന് ഇതിനകം തെളിഞ്ഞിട്ടുണ്ട്. അതുകൊണ്ട്, എനിക്ക ചൂണ്ടിപ്പറയാനുള്ളതു, ഇരിങ്ങാലക്കുട, കൊടുങ്ങല്ലൂർ, വടക്കാഞ്ചേരി, ചിറയ്ൻ മുതലായ ദിക്കുകളിൽ പ്രാക്റ്റീസ് ചെയ്യുന്ന വക്കീലന്മാക്ക ഇതിനു അവകാശമുണ്ടെന്നു വരുത്തിക്കൂട്ടാനെങ്കിലും, ഇനി ബാറിൽനിന്നെടുക്കേണ്ട സന്ദർഭം വരുമ്പോൾ അവക്ക മുൻഗണന കൊടുക്കണമെന്നു ഉൽബോധിപ്പിച്ചുകൊണ്ട് ഞാൻ ഈ പ്രമേയത്തെ പിന്താങ്ങുന്നു.

Mr. B. V. K. Menon *(Secretary to Government):* I am extremely glad to say that Government have absolutely no quarrel with the resolution and they accept it, in its entirety. I would only add that this has been the principle adopted by the Government.

Mr. P. Kumaran Ezhuhassan *(Vadakkancheri):* May I know one instance in which that principle has been put into practice ?

Mr. B. V. K. Menon *(Secretary to Government):* May I say that the retired Chief Justice Mr. T. S. Narayana Ayyar was recruited from the Trichur Bar ?

Mr. P. Kumaran Ezhuhassan *(Vadakkancheri):* Please give one instance of selection from the Mofussil Bar.

Mr. B. V. K. Menon *(Secretary to Government):* I gave the name of one person.

Mr. P. Kumaran Ezhuhassan *(Vadakkancheri):* Trichur is not included in this resolution.

Mr. B. V. K. Menon *(Secretary to Government):* I have nothing more to add. I have said what I have to say.

13. Proclamation for abolition of Caste distinctions

Rao Sahib P. V. Raphael *(Chief Secretary to Government):* In regard to this resolution I have to submit that Government are seriously considering about this question., and that this may be deferred to the next meeting of the Council. Government hope to come to some conclusion on that question by the Makaram Session of the Council.

Mrs. T. Francis *(Ernakulam-Women):* As the Chief Secretary to Government has requested me, I have no objection to put it off to the next session; but this resolution should be the first one.

Rao Sahib P. V. Raphael *(Chief Secretary to Government):* Yes.

* Speech not corrected by the Hon'ble Member.

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